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6	UNITED STATES D	DISTRICT COURT	
7	WESTERN DISTRICT OF WASHINGTON AT SEATTLE		
8	BACKPAGE.COM, LLC,)	
9) No. 2:12-cv-000954-RSM	
10	Plaintiff,)) STIPULATION AND ORDER	
11	and) FOR ENTRY OF FINAL) JUDGMENT ENJOINING	
12	THE INTERNET ARCHIVE,) ENFORCEMENT OF RCW	
13	Plaintiff-Intervenor,	4.68A.104 (WASHINGTONSENATE BILL 6251)	
14	v.)	
15	ROB MCKENNA, Attorney General of the)	
16	State of Washington, et al.)	
17	Defendants, in their official capacities.))	
18)	
19 20	<u>STIPULATION</u>		
21	The undersigned parties, by and through	gh their counsel of record, hereby stipulate	
22	and agree that:		
23	1. The Court will enter final judgment in this matter, permanently enjoining any		
24	enforcement or prosecution of any person under RCW 4.68A.104 (the codified version of		
25	Washington Engrossed Substitute Senate Bill 6251, Chapter 138, Washington Laws of		
26	2012), declaring that the statute is unconstitutional and violates federal law, and awarding		
27	costs and attorneys' fees to Plaintiffs, as set for	orth in paragraph 2, below.	

- 2. Plaintiffs are entitled to receive an award of costs and attorneys' fees pursuant to 42 U.S.C. § 1988 in the amount of \$200,000, to be paid by the Office of the Attorney General acting in its official capacity on behalf of the State of Washington within thirty (30) days of entry of final judgment by the Court.
- 3. With this Stipulation, the undersigned parties hereby settle all claims and potential claims related to this litigation, and no party will appeal or otherwise challenge an order of the Court as set forth below or entry of final judgment in this matter.
- 4. After entry of final judgment in this matter, the Washington Attorney General's Office will work with the Washington State Legislature to repeal the current unconstitutional version of RCW 4.68A.104 from the Laws of the State of Washington.

ORDER

Based on the foregoing Stipulation and the Court's prior orders, findings and conclusions in this action, it is hereby ORDERED, ADJUDGED and DECREED that:

- 1. Plaintiffs have standing to pursue the claims in this action pursuant to 42 U.S.C. § 1983 and the Declaratory Judgment Act, 28 U.S.C. § 2201.
- 2. The Court declares that RCW 4.68A.104 (the codified version of Washington Engrossed Substitute Senate Bill 6251, Chapter 138, Washington Laws of 2012):
 - a. Violates and is preempted by section 230 of the Communications Decency Act, 47 U.S.C. § 230;
 - b. Violates the First and Fourteenth Amendments to the United States Constitution because it lacks an appropriate element of scienter to avoid chilling protected speech;
 - c. Violates the First and Fourteenth Amendments because the law is unconstitutionally vague;
 - d. Violates the First and Fourteenth Amendments because the law is overbroad and not narrowly tailored to the State's asserted governmental interests; and

- e. Violates the dormant Commerce Clause, U.S. Const., Art. 1, § 8.
- 3. Because RCW 4.68A.104 will result in the loss or derogation of First Amendment and other constitutional and federal statutory rights; irreparable harm would result to online service providers and to the public generally if the statute were allowed to take effect; the balance of equities favors granting permanent injunctive relief; and an injunction is in the public interest; the Court therefore enters a PERMANENT INJUNCTION as follows:
 - a. Defendants and all other persons are permanently enjoined from enforcement of RCW 4.68A.104 in any way, including but not limited to taking any actions to enforce the statute or pursuing prosecution of any person under the statute in any way;
 - This permanent injunction shall take effect as of the date of this
 Order; and
 - c. The Clerk of Court is directed to enter a final judgment in accordance with this Order, terminating this action.
- 4. The Court awards Plaintiffs costs and attorneys' fees pursuant to 42 U.S.C. § 1988 in the amount of \$200,000 and finds that this award is just and reasonable. This award shall constitute a judgment against the Office of the Attorney General acting in its official capacity on behalf of the State of Washington and shall resolve all claims for attorneys' fees and costs against the undersigned Defendants. The undersigned parties respectively shall bear any other costs and fees incurred in connection with this action.

SO ORDERED this 10 day of December 2012.

RICARDO S. MARTINEZ

UNITED STATES DISTRICT JUDGE

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2	Presented and agreed to by: DAVIS WRIGHT TREMAINE LLP	
3		
4	s/ James C. Grant James C. Grant, WSBA No. 14358 Ambika K. Doran, WSBA No. 38237	
5		
	s/ Elizabeth L. McDougall	
6	Elizabeth E. MeDougan, WSBA 110. 27020	
7	General Counsel, Village Voice Media Holdings, LLC	
8	Attorneys for Plaintiff Backpage.com, LLC	
9	ELECTRONIC FRONTIER FOUNDATION	
10		
11		
12	FOCAL PLLC	
13	s/Venkat Balasubramani	
14	Venkat Balasubramani, WSBA No. 28269	
15	Attorneys for Plaintiff-Intervenor The Internet Archive	
16	ROBERT M. MCKENNA, Attorney General of the State of Washington	
17	s/ Lana Weinmann	
18	Lana Weinmann, WSBA No. 21393	
	Senior Assistant Attorney General	
19	Attorney for Attorney General Robert M. McKenna	
20	DANIEL T. SATTERBERG, King County Prosecuting Attorney	
21	s/ David Eldred	
22	David Eldred, WSBA No. 26125	
23	Senior Deputy Prosecuting Attorneys	
24	Attorneys for Defendant Prosecuting Attorneys	
25		
26		
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